

November 20, 2019

Mr. Timothy Hess
Whitman, Requardt and Associates LLP
801 S. Caroline St
Baltimore, Maryland 21231

Re: Parkville High School
Forest Conservation Variance –
FC 06-19-3102

Dear Mr. Hess:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on November 14, 2019. This request proposes to base afforestation calculations on the 0.4 acre limits of disturbance rather than the entire 26.8 acre school site to repair a slope failure adjacent to an athletic field that is causing safety concerns for students and staff. The repair will return the area to its prior condition. There are two specimen trees nearby, and there will be minor impacts to their critical root zones, but tree protection fencing and root pruning will be provided to protect the trees and ensure their survival.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to repair a failing slope on the side of an existing athletic field. There is no forest impacted by this work. Full application of the law to the entire property would not result in unwarranted hardship to the applicant, and we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The slope failure is an isolated area along an existing athletic field and was likely caused by the heavy rains of 2018. The repair work will be completely contained within a small portion of the school site. The site is already developed and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property use will not change. The school property is surrounded by residential development. The proposal to repair the failing slope will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. All sediment and erosion control techniques will be met during and after construction. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not started construction and is seeking all permits and approvals. The slope failure is not caused by any recent development activity. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the repair of a failing slope next to an athletic field is consistent. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code.

This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law. It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and an amended variance request.

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If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

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